

### REMARKS

Claims 20-21, 23-42, 44 and 47 are pending in the application. Claims 20 and 39 have been amended. Favorable action on the merits is earnestly solicited.

Claims 20, 21, 23-31, 33-37, 39-42, 44 and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over International Publication WO/98/01075 to Farin et al. (hereinafter "Farin") in view of U.S. Patent 5,836,909 to Cosmescu (hereinafter "Cosmescu"). The rejection is respectfully traversed.

Independent claim 20 recites that, *inter alia*, "said inhibiting device is adapted and arranged to prevent an outlet of said gas from said applicator except at an opening of said casing tube proximal to said cutting electrode."

Independent claim 39 recites that, *inter alia*, "said sealing member is adapted and arranged to prevent an outlet of said gas flow from said applicator except at an opening of said insulating member proximal to said electrode."

One central object of the claimed invention is to avoid the uncontrolled escape of gas through cavities of the instrument that are not intended to allow for the outlet of gas. Such an unintentional escape of gas not only adversely affects the performance of the instrument but also constitutes an operative risk since the ionized gas creates an unintended current path for the high frequency current that can injure not only the patient but also the surgeon. Neither Farin nor Cosmecu teach or suggest features that would overcome this problem.

Fig. 5a of Cosmescu illustrates a device comprising an O-ring 142 and interface of a first housing member 112 and a second housing member 114. Yet while this O-ring may prevent escape of gas between the first housing member 112 and the second housing member 114, it does not prevent an escape of gas from other orifices through which gas should not flow. As is clearly shown in Fig. 5b of Cosmescu, the first housing member 112 is configured to receive suction/irrigation connector (adaptor) 62. As is moreover readily visible from Figs. 4A and 4B of

Cosmescu, suction/irrigation connector (adaptor) 62, even when combined with the suction/irrigation tube 86, provides at least one passage 70 through which gas can escape other than the opening of the suction/irrigation tube 86 proximal to the electrode 130. Accordingly, neither Farin nor Cosmescu, taken alone or in combination, teach or suggest that "said inhibiting device is adapted and arranged to prevent an outlet of said gas from said applicator except at an opening of said casing tube proximal to said cutting electrode" as recited in independent claim 20 and "said sealing member is adapted and arranged to prevent an outlet of said gas flow from said applicator except at an opening of said insulating member proximal to said electrode," as recited in independent claim 39.


Claims 21, 23-31, 33-37 depend from independent claim 20 and claims 40-42, 44 and 47 depend from independent claim 39 and are allowable for at least the aforementioned reasons. Accordingly, Applicants respectfully requests withdrawal of the rejection.

Claims 32 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Farin, Cosmescu and U.S. Publication 2002/0077611 to von Dyck et al. (hereinafter "Dyck"). The rejection is respectfully traversed. Claims 32 and 38 depend from claim 20 and are allowable over Farin and Cosmescu for at least the aforementioned reasons and on their own merits. Dyck, cited as teaching an integral annular collar, fails to make up for the deficiencies of Farin and Cosmescu. Accordingly, the rejection should be withdrawn the claims allowed.

In view of the above, Applicants believe the pending application is in condition for allowance. Favorable action on the merits is earnestly solicited.

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Respectfully submitted,

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